

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5454 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

PRAVINKUMAR BABUIBHAI KARGATIA

Versus

STATE OF GUJARAT

Appearance:

MR MT KIKANI for Petitioner

MR BAMBANIA, Addl. Solicitor to the Government.

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 11/04/96

ORAL JUDGEMENT

The grievance of the petitioner is that though he was eligible for appointment on compassionate grounds after his father died in harness on 18.12.1990, he is being denied the same.

The petitioner had made an application for appointment on compassionate ground, but it has been

rejected by the communication dated 27.4.1993 at annexure "A" to the petition and again by the communication dated 22.2.1994 at annexure "B" to the petition. There were no reasons given for rejecting the application of the petitioner for compassionate appointment.

In the affidavit which has been filed on behalf of the respondents, it has been stated in paragraph 5(1) that the petitioner had not produced the original ration card and had produced the duplicate ration card, which did not show his father's name. This aspect has hardly any relevance on the question as to whether the petitioner should be given compassionate appointment as per the Government resolutions. It is also stated in the affidavit that the other son of the deceased employee was serving as a Clerk since 1987 in the office of the Land Acquisition Officer, Junagadh. It appears that the said son - Paresh was separate from his father having his own family and was serving since much prior to the death of his father, in the office of the Land Acquisition Officer, Junagadh. While dealing with a similar question in *Bhagwanji Vs. State of Gujarat* 1995 (1) GCD 862, My Lord Mr. Justice K.R. Vyas held that it was absurd to include the income of elder brother who was leaving separately with his own family even during the life time of the employee, for the purpose of computing the source of income of the dependents of the deceased. It appears that the concerned authority had not applied its mind to the scheme of giving compassionate appointment which is intended for the benefit of the dependents of the deceased employee. In view of the ratio of the decision in *Bhagwanji's case* (supra) and because the reasons now disclosed in the affidavit in reply are not germane to the issue, it would be appropriate to direct the concerned authority of the respondents to reconsider the case of the petitioners for compassionate appointment and take an appropriate decision in accordance with law expeditiously, preferably within 2 weeks after the writ of this order is received and the respondents are hereby so directed. Rule is made absolute accordingly with no order as to costs.
